

# Senate File 2160 - Enrolled

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SENATE FILE 2160

AN ACT

RELATING TO EMPLOYERS' PARTICIPATION IN UNEMPLOYMENT INSURANCE  
ADJUDICATIONS AND UNEMPLOYMENT INSURANCE TAX PENALTIES, AND  
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 96.3, subsection 7, Code 2007, is  
amended to read as follows:

7. RECOVERY OF OVERPAYMENT OF BENEFITS.

a. If an individual receives benefits for which the  
individual is subsequently determined to be ineligible, even  
though the individual acts in good faith and is not otherwise  
at fault, the benefits shall be recovered. The department in  
its discretion may recover the overpayment of benefits either  
by having a sum equal to the overpayment deducted from any  
future benefits payable to the individual or by having the  
individual pay to the department a sum equal to the  
overpayment.

b. (1) If the department determines that an overpayment  
has been made, the charge for the overpayment against the  
employer's account shall be removed and the account shall be  
credited with an amount equal to the overpayment from the  
unemployment compensation trust fund and this credit shall  
include both contributory and reimbursable employers,  
notwithstanding section 96.8, subsection 5. However, provided  
the benefits were not received as the result of fraud or  
willful misrepresentation by the individual, benefits shall  
not be recovered from an individual if the employer did not  
participate in the initial determination to award benefits  
pursuant to section 96.6, subsection 2, and an overpayment  
occurred because of a subsequent reversal on appeal regarding  
the issue of the individual's separation from employment. The  
employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance  
accounting firm, or other entity that represents an employer  
in unemployment claim matters and demonstrates a continuous  
pattern of failing to participate in the initial  
determinations to award benefits, as determined and defined by  
rule by the department, shall be denied permission by the  
department to represent any employers in unemployment  
insurance matters. This subparagraph does not apply to  
attorneys or counselors admitted to practice in the courts of  
this state pursuant to section 602.10101.

Sec. 2. Section 96.14, subsection 2, paragraph d, Code  
Supplement 2007, is amended to read as follows:

d. A penalty shall not be less than ~~ten dollars for the~~  
~~first delinquent report or the first insufficient report not~~  
~~made sufficient within thirty days after a request to do so.~~  
~~The penalty shall not be less than twenty-five dollars for the~~  
~~second delinquent or insufficient report, and not less than~~  
~~fifty thirty-five dollars for each delinquent or insufficient~~  
~~report thereafter, until four consecutive calendar quarters of~~  
~~reports are timely and sufficiently filed. Interest,~~

penalties, and cost shall be collected by the department in  
the same manner as provided by this chapter for contributions.

Sec. 3. Section 96.14, subsection 2, Code Supplement 2007,  
is amended by adding the following new paragraph:

NEW PARAGRAPH. ee. If any tendered payment of any amount  
due in the form of a check, draft, or money order is not  
honored when presented to a financial institution, any costs  
assessed to the department by the financial institution and a  
fee of thirty dollars shall be assessed to the employer.

Sec. 4. Section 96.14, Code Supplement 2007, is amended by  
adding the following new subsection:

NEW SUBSECTION. 17. EMPLOYER SUBPOENA COST AND PENALTY.  
An employer who is served with a subpoena pursuant to section  
96.11, subsection 7, for the investigation of an employer  
liability issue, to complete audits, to secure reports, or to  
assess contributions shall pay all costs associated with the  
subpoena, including service fees and court costs. The

3 4 department shall penalize an employer in the amount of two  
3 5 hundred fifty dollars if that employer refused to honor a  
3 6 subpoena or negligently failed to honor a subpoena. The cost  
3 7 of the subpoena and any penalty shall be collected in the  
3 8 manner provided in section 96.14, subsection 3.  
3 9 Sec. 5. EFFECTIVE DATE. The sections of this Act amending  
3 10 section 96.14 take effect January 1, 2009.  
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3 15 JOHN P. KIBBIE  
3 16 President of the Senate  
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3 18 \_\_\_\_\_  
3 19 PATRICK J. MURPHY  
3 20 Speaker of the House  
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3 22 I hereby certify that this bill originated in the Senate and  
3 23 is known as Senate File 2160, Eighty-second General Assembly.  
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3 27 \_\_\_\_\_  
3 28 MICHAEL E. MARSHALL  
3 29 Secretary of the Senate

3 29 Approved \_\_\_\_\_, 2008  
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3 33 \_\_\_\_\_  
3 34 CHESTER J. CULVER  
3 35 Governor